

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 03-14038

**FILED**

**U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT**

**April 14, 2005**

**THOMAS K. KAHN  
CLERK**

D. C. Docket Nos. 90-00258-CV-5 & 90-00262- CV-5

FELTON CULLEN WILLIAMS,  
RICHARD L. CARTER, et al.,

versus

OWENS-CORNING FIBERGLAS CORPORATION, et al,

CSX TRANSPORTATION, INC.,

Plaintiffs-Appellees,

Defendants,


Defendant-Appellant.

No. 03-14508

D. C. Docket No. 01-00155-CV-2

JAMES LEVERETT,  
Individually and as Executor of the  
Estate of Gloria Leverett, Deceased,

A True Copy - Attested  
Clerk U.S. Court of Appeals,  
Eleventh Circuit

By:   
Deputy Clerk  
Atlanta, Georgia

Plaintiff-Appellee,

versus

CSX TRANSPORTATION INC.,  
Individually and as Successor in Interest to  
Seaboard Systems Railroad, Inc., The Seaboard  
Coastline Railroad, The Atlantic Coastline Railroad and  
The Georgia and Florida Railroad,

Defendant-Appellant,

GARLOCK, INC., et al,

Defendants.

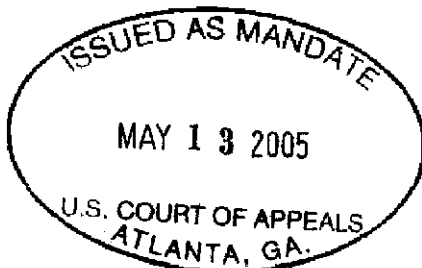
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Appeals from the United States District Court  
for the Southern District of Georgia

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### J U D G M E N T

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.



Entered: April 14, 2005  
For the Court: Thomas K. Kahn, Clerk  
By: Gilman, Nancy

Felton Cullen WILLIAMS,  
Plaintiffs-Appellees,

v.

OWENS-CORNING FIBERGLAS  
CORPORATION, et al.,  
Defendants,

CSX Transportation, Inc.,  
Defendant-Appellant.

James Leverett, Individually and as Exec-  
utor of the Estate of Gloria Leverett,  
Deceased, Plaintiff-Appellee,

v.

CSX Transportation Inc., Individually and  
as Successor in Interest to Seaboard  
Systems Railroad, Inc., The Seaboard  
Coastline Railroad, The Atlantic Coast-  
line Railroad and The Georgia and Flor-  
ida Railroad, Defendant-Appellant,

Garlock, Inc., et al, Defendants.

Nos. 03-14038, 03-14508.

United States Court of Appeals,  
Eleventh Circuit.

April 14, 2005.

Appeals from the United States District  
Court for the Southern District of Georgia  
(Nos. 90-00258-CV-5, 90-00262-CV-5 and 01-  
00155-CV-2); Anthony A. Alaimo, Judge.

Before BLACK, RONEY and STROM\*,  
Circuit Judges.

\* Honorable Lyle E. Strom, United States District  
Judge for the District of Nebraska, sitting by

PER CURIAM:

These separate interlocutory appeals, Nos. 03-14038 & 03-14508, are again before this Court after the Supreme Court of Georgia's answer to our Certified Question of State Law. Plaintiffs are relatives, or personal representatives thereof, of Defendant CSX Transportation ("CSXT") employees who allege in the diversity jurisdiction case they were exposed at locations other than CSXT work facilities, such as at home, to asbestos fibers emitted from the work clothing worn by their CSXT-employee relatives, causing them, among other things, lung diseases. The district court denied CSXT's motions for partial summary judgments on plaintiffs' negligence claims under Georgia negligence law. We reverse.

As we recently explained, "the district court held that Georgia negligence law imposed a duty of care on CSXT to its employees' family members who were exposed to that asbestos-tainted clothing." *Williams v. Owens-Corning Fiberglas Corp.*, 369 F.3d 1269, 1270 (11th Cir.2004). Because we found no published Georgia case on point, we certified the following question of Georgia law to the Supreme Court of Georgia:

Whether Georgia negligence law imposes any duty on an employer to a third-party, non-employee, who comes into contact with its employee's asbestos-tainted work clothing at locations away from the workplace, such as the employee's home?

369 F.3d at 1270.

The Supreme Court of Georgia has now answered our question in the negative as follows, "Georgia negligence law does not impose any duty on an employer to a third-party, non-employee, who comes into contact

designation.

**WILLIAMS v. OWENS-CORNING FIBERGLAS CORP.**

with its employee's asbestos-tainted work clothing at locations away from the workplace." See *CSX Transp., Inc. v. Williams, et al.*, 278 Ga. 888, 608 S.E.2d 208, 210 (2005).

It was therefore error for the district court to deny CSXT's motions for partial summary judgment on the ground that CSXT owed

such a duty of care. The judgment denying CSXT's motions for summary judgment are reversed and the cases are remanded to the district court for proceedings consistent with the Georgia State Law.

**REVERSED AND REMANDED.**

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Eleventh Circuit

By: 

Deputy Clerk  
Atlanta, Georgia

**UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT  
BILL OF COSTS**

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
APR 22 2005  
THOMAS K. KAHN  
CLERK

CSX Transportation

Appellant

vs.

Case No. 03-14508-CC

James Leverett

Appellee

Fed.R.App.P. 39 and 11th Cir. R. 39-1 (see reverse) govern costs which are taxable in this court and the time for filing the Bill of Costs. A motion for leave to file out of time is required for a Bill of Costs not timely received.

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Appellee's Brief							
Reply Brief		x	23	20 11	460 253	115.00	\$ 103.25
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I hereby swear or affirm that the costs claimed were actually and necessarily incurred or performed in this appeal and that I have served this Bill of Costs on counsel/parties of record.

Date Signed: X April 20, 2005

Signature: X Maughela Moan

Attorney for: CSX Transportation  
(Type or print name of client)

**FOR COURT USE ONLY**

Costs are hereby taxed in the amount of \$ 273.75 against appellee

and are payable directly to appellant

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Eleventh Circuit

Thomas K. Kahn, Clerk

By: [Signature]  
Deputy Clerk  
Atlanta, Georgia

Issued on: MAY 13 2005

By: [Signature]  
Deputy Clerk

Scott L. Poff  
Clerk, U.S. District Court  
801 GLOUCESTER ST RM 229  
BRUNSWICK GA 31521-7075

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May 13, 2005

**Appeal Number: 03-14508-CC**  
Case Style: James Leverett v. CSX Transportation Inc.  
District Court Number: 01-00155 CV-2

TO: Scott L. Poff  
CC: Randall Athley Jordan  
CC: Mary Helen Moses  
CC: Roger B. Lane  
CC: Administrative File